

Attorney Docket No.: **BERN0073US.NP**
Inventors: **Eric F. Bernstein**
Serial No.: **10/541,348**
Filing Date: **September 26, 2005**
Page 2

REMARKS

Claims 1-10 are pending in the instant application.

Claims 1-10 have been subjected to the following Restriction Requirement:

Group I, claims 1-2, drawn to a method for treating ocular disease with a nitroxide containing compound or a polyhydroxy acid containing compound;

Group II, claims 3-4, drawn to a method for treating ocular disease with a nitroxide containing compound and a polyhydroxy acid containing compound;

Group III, claims 5-6, drawn to a method for preventing ocular disease with a nitroxide containing compound or a polyhydroxy acid containing compound;

Group IV, claims 7-8, drawn to a method for preventing ocular disease with a nitroxide containing compound and a polyhydroxy acid containing compound; and

Group V, claims 9-10, drawn to the composition comprising a nitroxide containing compound and a polyhydroxy acid containing compound and a pharmaceutically acceptable vehicle.

The Examiner suggests that Groups I-V do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical feature.

Attorney Docket No.: **BERN0073US.NP**
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Serial No.: **10/541,348**
Filing Date: **September 26, 2005**
Page 3

Applicant respectfully traverses this Restriction Requirement.

Applicant respectfully disagrees with the Examiner's suggestion that there is no technical feature linking Groups I-V. As acknowledged by the Examiner, Groups I and III are linked by having a composition comprising a nitroxide containing compound or a polyhydroxy acid containing compound while Groups II, IV, and V relate to a composition comprising both a nitroxide containing compound and a polyhydroxy acid containing compound. Accordingly all Groups are related or linked by the general inventive concept of treating or preventing ocular disease with a composition comprising a nitroxide containing compound or a polyhydroxy acid containing compound.

Further, it is respectfully pointed out that all claims were searched during the PCT phase of the instant application by the same Examiner. Accordingly, the Examiner's suggestion that Groups I-V should be restricted based upon lack of unity contradicts the search already conducted in the PCT phase.

In addition, since a search of all claims has already been conducted, inclusion of all groups in the instant application places no additional burden on the Examiner. See MPEP 803.

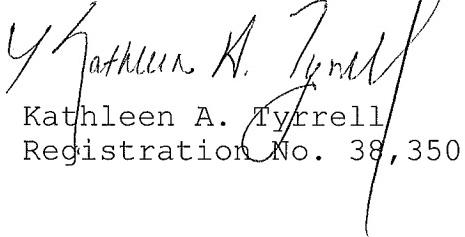
Attorney Docket No.: **BERN0073US.NP**
Inventors: **Eric F. Bernstein**
Serial No.: **10/541,348**
Filing Date: **September 26, 2005**
Page 4

Thus, reconsideration of this Restriction Requirement and prosecution of all pending claims is respectfully requested.

In an earnest effort to be completely responsive to this Office Communication, however, Applicant elects Group I, claims 1-2, with traverse.

Applicant believes that the foregoing comprises a full and complete response to the Office Action of record.

Respectfully submitted,


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